

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-101-C - ORDER NO. 97-530
JUNE 19, 1997

IN RE: Entry of BellSouth Telecommunications,) ORDER
Inc. into InterLATA Toll Market.) DENYING
) PETITION FOR
) DECLARATORY
) ORDER

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Declaratory Order filed by MCI Telecommunications Corporation (MCI) in this Docket. MCI asks us to declare (1) that Section 271 (c)(1)(B) of the Federal Telecommunications Act of 1996 (the Act) cannot form the basis for a Commission verification of compliance by BellSouth Telecommunications, Inc. (BellSouth or BST) under Section 271(d)(2)(B) of the Act and (2) that Section 271 (c)(1)(A) of the Act is inapplicable to this proceeding. Replies to the Motion were filed by numerous parties.

Accordingly, oral arguments were held on June 11, 1997 at 9:30 AM, in the offices of the Commission, with the Honorable Guy Butler, Chairman, presiding. MCI was represented by Marsha A. Ward, Esq. and John M.S. Hoefer, Esq. S.C. Cable Television Association (SCCTA) was represented by B. Craig Collins, Esq. AT&T Communications of the Southern States, Inc. (AT&T) was represented by Steve A. Matthews, Esq. and Francis P. Mood, Esq.

The Consumer Advocate for the State of South Carolina (the Consumer Advocate) was represented by Elliott F. Elam, Esq. American Communications Services, Inc. (ACSI) was represented by Russell B. Shetterly, Jr., Esq. and Theodore A. Riley, Esq. The South Carolina Telephone Coalition (SCTC) was represented by Margaret M. Fox, Esq. The South Carolina Competitive Carriers Association (SCCCA) was represented by Frank R. Ellerbe, III, Esq. Sprint Communications Company, L.L.P. was represented by Carolyn Matthews, Esq. and William R. Atkinson, Esq. BST was represented by Harry M. Lightsey, III, Esq. and William F. Austin, Esq. BellSouth Long Distance, Inc. (BSLD) was represented by Dwight F. Drake, Esq. and Kevin A. Hall, Esq. The Commission Staff was represented by F. David Butler, General Counsel. The Intervenors LCI International, Inc. and the Communications Workers of America were not present for the arguments, nor were they represented by counsel.

MCI's arguments and the issues in its Petition may be summarized as follows:

1) That BST cannot, as a matter of law, receive verification from this Commission that it has complied with the requirements of Section 271 (c)(1)(B) (Track B) of the Act because it has in fact received interconnection requests;

2) That BST has not sought, and cannot seek, verification from this Commission that it has complied with the requirements of Section 271 (c)(1)(A) (Track A) of the Act;

3) That the Commission may review BST's SGAT only for

purposes of determining its compliance with Section 252 (f) of the Act and that any such review will be so limited; and

4) That the Commission restrict any Section 271 review of BST's filing to whether BST has met the requirements of Section 271 (c).

The interexchange carriers (IXC's), the Consumer Advocate, SCCTA, and SCCCA agree with MCI. BST and BSLD oppose the Petition in toto. The Commission Staff argues that we need not rule.

As BST has pointed out in its response to MCI's Petition, if MCI's Petition were granted, this Commission could not review evidence necessary to fully prepare for its consultative role under Section 271, and that, further, this Commission would be required to rule on issues that Section 271 assigns to the Federal Communications Commission (FCC). When BellSouth files a Section 271 application with the FCC for authority to provide long distance service in South Carolina, Section 271(d) requires the FCC to consult with this Commission. At that time, and depending on the facts at the time the application is filed, the Commission may offer a timely opinion. Thus, according to BST, no conclusive judgment about the routes to long distance authority is appropriate until an application is filed with the FCC.

The Commission Staff argues that it may be premature for the Commission to rule on whether BST should be foreclosed from proceeding under either track, since, if MCI's Petition was granted, the Commission would be foreclosed from hearing as much evidence as it could in order to prepare for its consultative role

to the FCC. The Staff further notes that, after consultation with this Commission, the FCC can decide the final applicability of either track.

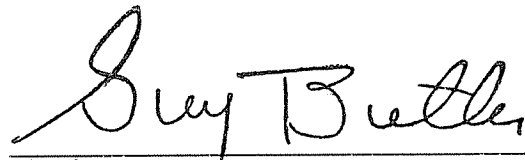
Upon reflection, we agree with BST and the Commission Staff. We do not think it is appropriate to foreclose ourselves from hearing as much evidence as possible on this matter, in preparation for our consultative role with the FCC. We think it would be premature to foreclose BST from consideration for either Track A or Track B. We believe that the final decision on the applicability of either Track should be deferred to the FCC, since Federal law is involved in this issue. MCI's Petition as to the "Track A-Track B" controversy must be denied.

MCI's Petition is therefore denied. Our consultative review of BellSouth's filing will proceed as is currently scheduled.

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This Order shall remain in full force and effect until
further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)